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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : NINKOV, Dusan  
SERIAL NO : 09/974,719  
FILED : October 9, 2001  
TITLE : COMPOSITIONS FOR INJECTION OR INTRAVENOUS  
ADMINISTRATION FOR THE TREATMENT OF INTERNAL  
INFECTION OR INFLAMMATION IN HUMANS AND ANIMALS

Grp./A.U. : 1614  
Examiner : JAGOE, Donna A.  
Conf. No. : 7844  
Docket No. : P06882US01

## AMENDMENT

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Madam:

This reply is believed to be fully responsive to the Office Action dated December 15, 2004 and supersedes the response filed March 15, 2005. In response to the Office Action dated May 26, 2005, please amend the above-identified application as follows:

## CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))


I hereby certify that this correspondence is, on the date shown below, being:

## MAILING

☐ deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Mail Stop Amendment, Alexandria, VA 22313-1450.

## FACSIMILE

☒ transmitted by facsimile to the Patent and Trademark Office, Art Unit 1614 at Fax No. (703) 872-9306

Date: 6-10-05  
DANA E. LEHMAN BELL

578, 587, 160 USPQ 237, 244 (C.C.P.A. 1969); *In re Caldwell*, 319 F.2d 254, 256, 138 USPQ 243, 245 (C.C.P.A. 1963).

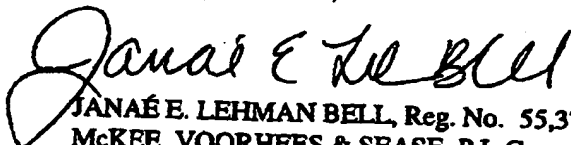
Furthermore, there is no teaching in either the '780 patent or Remington's Pharmaceutical Sciences that levels of isopropyl-o-cresol and isopropyl cresol claimed by Applicants are effective in treating mastitis in a cow (Example 14a), or tendon inflammation in horses (Example 27). Applicants remind Examiner that the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143. Thus, the claimed invention is not obvious. Therefore, Applicants respectfully request that the rejection to claims 10-11 under 35 U.S.C. §103 be withdrawn and reconsidered.

#### Conclusion

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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